

With respect to the independent claims:

1. The prior art does not disclose nor teach apparatus having in combination (a) belt means which contours the web being fed, in a plane transverse to the web flow path or length; and (b) a feeder and cutter which are spaced apart, wherein the web has to extend through space to enter the cutter gap.
2. The prior art does not disclose nor teach apparatus comprising a rotary cutter, where the anvil of the cutter is cooled, especially interior-cooling.
3. The prior art does not disclose nor teach a way of controlling label length by sensing whether or not the indicia has been cut or what the comparative lengths of a cut indicium are.
4. The dependent claims provide additive novelty, except in some instances as applicant admits, in the ways detailed below.

Rejections under 35 USC 102

Shingu et al. patent

Claims 1-5 are rejected based on the Shingu et al. patent. Claim 1-5 embrace contouring of the web in a plane which is transverse to the web flow path, i.e., to the length of the web. However, Shingu at cited Fig. 10B shows contouring in the plane of which is parallel to the flow path. That is evident when the cited Fig. 10B is viewed in combination with Fig. 10A which shows the flow path direction as “Advancing Direction”. Fig. 13 and associated text show the same kind of contouring.

With respect to claim 2: Applicants agree that means for receiving and transporting labels along a continuation of the flow path does not itself add novelty, but the claim ought to be allowed as a particular embodiment of the patentable parent claim which it obtains novelty.

Claim 3 has been re-written to better state the invention. Applicants do not see that Shingu discloses contouring labels at all, in distinction to lengthwise contouring web. To the extent any contouring of labels may be described by Shingu it would have to be contouring in a transverse plane to support a rejection.

As to claim 4: While Shingu shows a web roll source, Shingu does not show a means for delivering from the source which causes a free loop path. Rather Shingu shows an un-free loop path.

Claim 5 has been cancelled.

Haggman patent

Claims 1-5 are rejected based on the Haggman patent. However, as argued above, the contouring which is shown in Haggman is only in a plane which lies along the length of the web. Cited Fig. 2 does not appear to show contouring of web. Thus, each and every element of the invention of claim 1 is not shown.

With respect to claim 2, applicant repeats the comment above.

As to claim 3: There is no contouring of labels in a plane which is transverse to the web flow path by the means which receives the labels.

As to claim 4: Applicants agree that a free loop path is shown. But claim 4 should be allowed as a particular embodiment of the patentable parent claim from which it obtains novelty.

Claim 5 has been cancelled.

Nash patent

Claims 1-5 are rejected based on the Nash patent. Applicants arguments are basically the same as above.

With respect to claim 1, contouring in a transverse plane is not shown. Office action paragraph 25 says "the web is capable of being contoured in a plane transverse... prior to being cut..." and paragraph 28 has similar expression. However, a valid 35 USC 102 rejection must be based on what the reference shows, not on what might be a possible variation (notwithstanding applicant contests that the Nash web can be contoured in the apparatus shown).

Applicants arguments with respect to claims 2 and 4 are the same as made in connection with Shingu.

With respect to claim 7: The claim is a particular embodiment of claim 6 which is said to be potentially allowable, and thus should be allowed based on the novelty of the limitations in the claims from which it depends.

With respect to claim 10: (a) Claim 10 has been changed to dependency only on claim 7. New claim 39 is submitted with the same matter as claim 10, but dependent from claim 9. (b) There is no description which supports what the relative dimensions between belt and roller are to know whether or not there would be claimed stretching. Sustaining the rejection means that one would have to rely on the pictures, which are undimensioned and thus cannot properly be so relied on. Even so, applicant submits the claims 10 and 39 should be allowed as based on novelty by virtue of its dependency from patentable claim 1.

With respect to claim 13 and means for pressing: Applicants' claim 13 is drawn to a feeder

which presses web onto the belts, so the invention is not shown. In Fig. 1, Nash feeds web by means 18, then cuts web at cutter 19 and then puts the labels on the belts 32. Nash 121 is a vacuum cylinder which presses on the label, not on the web, if it presses at all. Furthermore, the limitations of the parent claims, e.g., claims 6 and 1 are not shown.

With respect to claim 16: Claim 16 has been amended to more particularly describe the invention. In Nash, there are a plurality of stripper rings 138 which lift the label from the belts (tapes) 132 and they would not have the effect of contouring the label. See Fig. 4. In the amended claim the stripper rings are a pair which straddle any belts and that lowered center portion of the roller is what achieve the transverse contouring. Thus, the subject matter of claim 16 is not described by Nash.

With respect to claim 24: The cited text does describe a cutter and knife like those of applicant, but it does not disclose any means for resiliently pressing of the anvil and knife cylinder, nor any frictional engagement, between the anvil and knife cylinder. Thus the elements are not shown.

As to claim 25: Nash at Col. 3, lines 62-63 says that the knife "barely makes contact" with the anvil. But there is no description of a knife cylinder which has the frictional engagement features of claim 24 and which is also of a diameter different from the diameter of the anvil, to achieve the different rotations which are claimed.

Backlund et al. patent

Claims 1, 23-26 and 32, 33 are rejected based on the Backlund et al. patent.

As to claim 1: Applicants submit the same arguments about contouring in a transverse plane as above. Backlund does not show contouring, and that the web might be capable of contouring is not a basis for a 35 USC 102 rejection.

As to claim 23 and paragraph 37 of the office action: Backlund shows a cutter and anvil, but does not disclose any means for cooling the anvil. The Col. 3, line 42-47 text cited by examiner says "it is possible to cool subsequent to applying the discrete pieces, suitably with aid of some form of cooling device." The question arises: Possible to cool what? Pieces 6 are ultrasonically bonded to web 4. Those are the pieces which are heated and in its vagueness the text is only logically applied to cooling the parts which are heated. There is no suggestion that the anvil heats or is in need of cooling, or of any way of carrying out such cooling -- i.e., there is no means shown sufficient to support a 35 USC 102 rejection. Furthermore, the vacuum holding devices would draw air in, and locally cool the anvil, when a label was not present, obviating any need for cooling of the anvil.

As to claim 24: Backlund, particularly at the cited Col. 2, lines 8-11, does not describe how the knife and anvil are held in position relative to one another, much less that they are resiliently pressed together and frictionally engaged. In fact, Fig. 1 shows that they are spaced apart.

As to claim 25: Backlund does not and cannot show the claimed feature of different circumferential contact because the material must be cut and welded at the same points around the anvil. Otherwise the cut pieces would not be disposed upon the label holding (vacuum) means 7 and the device would not work.

As to claim 26: Applicants' argument is the same as for claim 23 just above, as to there being no cooling means described. Furthermore, there is no description of cooling means which are interior of the anvil.

Claim 33 has been cancelled.

Edwards et al. patent

Claims 27-29 and 31 are rejected based on the Edwards et al. patent.

Applicants' invention of claim 27 involves a sensor which compares the lengths of severed portions of an indicia. Applicant admits that means for feeding, cutting, and receiving, and sensors are known for sensing indicia; and that means for adjusting cut length based on sensor readings of indicia location are known. However, applicants submit means for comparing the lengths of a indicium after cutting are not known, particularly in combination with the other elements of the apparatus.

Edwards at Col. 12 describes how the severing of the web is carried out, and that there are sensors which read imprinting (characters or indicia) but that is based on their position of location. See lines 43-47. Thus Edwards describes a different process, and does not meet the requirements of 35 USC 102.

As to claim 28: Applicants' invention sets of indicia with a cut location space therebetween, and means for determining if an indicia has been changed in length, i.e., if it has been cut. Again, Edwards looks for the location of the indicium, and not at the character (completeness of length) of the indicium.

As to claim 29: Applicants agree with the examiner's statement. Claim 29 should be allowed at least as a preferred embodiment of the patentable claims from which it depends.

With respect to all the foregoing patents and associated rejections:

Each and every element of the invention are not shown, and at least the dependent claims obtain novelty from the parent claim 1, notwithstanding the points for additive novelty which have been made. Thus, the rejections for those claim still pending, as amended, should be withdrawn.

Rejection under 35 USC 103

A. Responsive to office action paragraphs 49-50

Claim 7 is rejected based on the combination of Haggman and Nash. Applicants agree that spaced apart belts are known. However, Nash teaches away in that it shows no center belt, but instead a pair of belts which straddle the centerline of the web. So, the combination of the two disclosures does not result in the invention. In any case, claim 7 should be allowed since it has novelty by virtue of being a more particular embodiment of patentable claim 6.

B. Responsive to office action paragraphs 51-54

Claim 17-18 and 20 are rejected based on the combination of Franke and Backlund. Backlund has been discussed above.

As to claim 17: Applicants admit rotary cutters of the type shown by Backlund are old. Franke shows a shear type of cutter 14, 15. Applicants dispute that a Backlund cutter can be substituted for compact Franke shear cutter, or that there would be motivation to attempt such, for the following reasons:

1. Since the knife of a Backlund type cutter rotates through space, it cannot be placed in proximity to other apparatus, such as a transport, for instance Franke guide 7. The Franke cylinder 17 would also have to be moved and there would be no means to transport the cut portion across the resultant gap. Thus, the Franke apparatus would have to be substantially redesigned, and that shows the combination is unworkable, in addition to unmotivated.
2. Although Examiner says the motivation would be better to control, the opposite result would be obtained. Synchronizing the rotation of a cutter knife relative to a web which moves is more difficult than synchronizing the up-down motion of a simple shear cutter 14. See also the point 1, as another negative motive. The text cited by the examiner does not address cutting and does not support any motivation. There is no deficiency recited in the use of a shear cutter. Furthermore, the Franke patent is relatively new, and rotary cutters are old. So, why would Franke not use such if it was better? To support the rejection there must be some suggestion of need.

Claim 17 has been amended to recite that the feeder comprises belt means, and that there is a spacing between the parts of the apparatus, to thus further distinguish the claimed invention from any combination of Franke and Backlund.

As to claim 18: In Franke, the cut label is transported by the roller 17 in a direction perpendicular to the web flow path. In the claim, which is now made clearer by amending, the velocity is that in the direction of the web flow path. Franke has zero velocity in such direction, a teaching away. Backlund is not relevant to the issue. Thus, claim 18 as amended should be allowable on this basis and by virtue of its dependency.

As to claim 20: The claim has been amended to recite web as part of the apparatus. Applicants agree with examiner's point. Claim 20 should be allowed as a particular embodiment of claim 18.

C. Responsive to office action paragraphs 55-56

Claim 19 is rejected based on Franke, Backlund and Edwards. In the claim the cutter only cuts part way through, and applicants argue as follows:

1. The combination of Franke and Backlund is unsuggested and impractical, for reasons given above at Section B, and thus a combination also with Edwards is more so in the same category.
2. Franke and Backlund teach full separation of label from web, and their apparatuses or processes would not be improved by less than full separation. In fact they would not appear to be workable without full separation, so how can one say that there would be any motivation to improve. Respectfully, examiner is picking and choosing in hindsight.
3. The citation from the Edwards patent at Col. 3 has to be read in combination with the preceding text at Col. 2, line 59+. It is a teaching away from the invention, toward perforation at spaced apart locations along the cut line, and not partial cutting through within the meaning of applicants specification. In Edwards, the integrity of the pack is maintained by the location of the cut line, not by less than complete cutting. Col. 3 top.

Claim 19 has been amended to recite that the cutting is only partially through the web thickness. Claim 19 is novel further more by virtue of its dependence from claim 18, insofar as the takeaway velocity. Edwards teaches away in that there is no separation of the label (blister pack) from the web.

D. Responsive to office action paragraphs 57-58

Claim 21 is rejected based on the combination of Franke, Backlund, Haggman and Nash. Claim 21 has been amended to delete the "use" language and to recite that the belts run around the same set of rollers.

Applicants refer to the argument above as to why the Franke and Backlund patents cannot be combined to support a rejection.

Franke discloses a feeder having a vacuum gripping surface along which the label is slid by means of a drive wheel. It is not correct that three belts would provide more support than the full surface of Franke, thus undercutting the motivation which examiner says is present.

Applicants have already argued above why Nash does not disclose the invention, to which reference should be made. (It is not relevant to the present claim, but applicants contests that examiner says here that Nash discloses belts having changing elevation relative to each other.

Applicants submit that Nash teaches away by having the belts at the same elevation relative to each other.)

E. Responsive to office action paragraphs 59-60

Claim 30 is rejected based on Edwards in view of Backlund.

Edwards at Col. 12, lines 33-35 and lines 59-64, states that the action which is taken in response to a sensor reading which shows a change in the location of sensed indicia, is to change the amount of web which is being moved forward, i.e., to change the feeder speed. There is no teaching of applicants' Claim 30 invention, wherein the length of the label is changed by changing the speed or timing of the cutter. In the absence of teaching, the claim should be allowed. Furthermore, the claim obtains novelty by virtue of its dependency.

Applicants appreciate the work examiner has done as reflected in the length and detail of the office action, and given that the structure of some of the claims was imperfect. They submit that their amended claims are improved and define patentable invention, and that they ought to be allowed for reasons given. They respectfully request such.

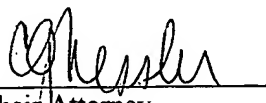
Method claims and Withdrawal of Restriction Requirement

Applicants request withdrawal of the restriction requirement with respect to claims 33-35 and allowance of said claims along with claim 38, for the reasons below.

Claims 36 and 37 have been cancelled. Claim 34 is amended to eliminate a potential issue requiring additional search. That also eliminates the issue with respect to claim 35.

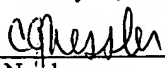
Recognizing what the examiner has said about a different search area because of process vs. apparatus, applicants submit that the methods of the now amended restricted claims 34-35 and of claim 38 simply state in method language what is in the apparatus claims; and that the methods cannot be used to practice a materially different process from that of the apparatus. (Obviously, additional steps may be added just as additional structure may be added to the apparatus.) Thus, if the apparatus claims are allowed, the remaining method claims should also be allowed.

Respectfully submitted,
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I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Commissioner of Patents, Box 1450, Alexandria VA 22313 on May 26, 2006.



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